IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6929 OF 2005

Mrs.Lailabi Chhubulal Mulla .. Petitioner

Vs.

Shri Ali Babasaheb Mulani & Ors. ..Respondents

Ms.Vaidehi Kamat for the petitioner

CORAM : S.U.KAMDAR, J
DATED : 2ND DECEMBER, 2005

P.C.:

1. The present petition challenges the order passed by the Appellate Court dt.9.6.05 by which injunction granted by the Trial Court in favour of the petitioner restraining the respondents from obstructing construction of the property by opening the door on plot no.880 in which the respondent and the petitioner are co-owners has been set aside.

2. Matter is at the interlocutory stage. The learned Appellate court after considering the fact has come to the conclusion that by permitting opening the door in the Southern side of the plot No.880, right of respondent as co-owner to use his

property of City Survey No. 880 is likely to be affected and accordingly injunction application of the petitioner restraining the respondents from obstructing construction has been set aside.

3. The learned counsel for the petitioner makes a statement that the petitioner will construct only on her own plot being City Survey No. 879 of which the petitioner is sole owner and will not open the door of the structure in the manner proposed and objected to before the trial court and appellate court. The learned counsel further states that the petitioner will not encroach upon or carry on any construction on any part of the plot of land being CTS No.880. In that view of the matter, the present petitioner will be at liberty to construct accordingly. There is no injunction order by the lower court restraining the petitioner from constructing the property on her own suit property being City Survey No. 879. With this clarification, petition is disposed of accordingly. No order as to costs.